

Claimant contends she injured her back on or about August 6, 1994 while working for the respondent when she allegedly helped lift a small window air conditioner. Claimant contends she notified her supervisor of the incident later the same day.

The parties presented conflicting evidence concerning the issues of whether claimant injured herself at work and whether she provided notice. Neither party presented a medical report or medical opinion from a physician regarding the relationship of claimant's present symptoms to the alleged incident, although it has been over one year after the incident occurred.

The Administrative Law Judge did not believe claimant's version of the facts. Because the Administrative Law Judge was in the enviable and unique position to observe claimant testify and, therefore, assess her demeanor, in this instance the Appeals Board gives some deference to the Judge's opinion of claimant's credibility. The Appeals Board agrees with the analysis and conclusion of the Administrative Law Judge that "claimant has not carried her burden of proof."

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the preliminary hearing Order entered by Administrative Law Judge Floyd V. Palmer dated April 15, 1996, should be, and hereby is, affirmed.

IT IS SO ORDERED.

Dated this ____ day of June 1996.

BOARD MEMBER

c: Roger D. Fincher, Topeka, KS
Ronald J. Laskowski, Topeka, KS
Floyd V. Palmer, Administrative Law Judge
Philip S. Harness, Director